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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 08/716,169 | 12/17/96 | ANDERTON | S 961125 |

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EXAMINER

NOLAN, P

ART UNIT

PAPER NUMBER

1644

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DATE MAILED:

07/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/716,169

Applicant(s)

Anderson et al.

Examiner

Nolan

Group Art Unit

1644

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/11/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.**

Disposition of Claims

- ☒ Claim(s) 3-6, 18 and 22-23 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 3-6, 18 and 22-23 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Part III DETAILED ACTION

1. This application is a 371 of PCT/NL95/00108.
2. Claims 3-6, 18 and 22-23 are pending.
3. The request filed on 7/11/00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/716,169 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 3-6, 18 and 22-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Munk et al., (U1) or Quayle et al. (V1).

Quayle et al., teaches two peptides derived from the M. Bovis hsp65 sequence, wherein said sequences comprise 6 amino acid residues which are identical with the corresponding amino acids in the same relative position in sequences 84-95 or 256-265 of SEQ ID NO. 1, see Table 1. Since M. Bovis hsp65 and M. Tuberculosis hsp 65 are identical, the prior art teachings anticipate the claimed invention. Quayle et al., also teaches the use of said peptides in compositions (See Table 2, in particular).

Munk et al., teaches a peptide comprising residues 84-95 of M. Tuberculosis (see Table III) and the use of said peptide in a composition (See Table IV).

The prior art teachings anticipate the claimed invention.

- 5 Applicant' arguments filed 4/12/00 have not been considered since only new art rejections were set forth in the current office action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Nolan whose telephone number is (703) 305-1987. The examiner can normally be reached on Monday through Friday from 8:30 am to 4:30 pm.

Serial Number 08/716,169
Art Unit: 1644

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7. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at (703) 305-3973. The FAX number for our group, 1644, is (703) 305-7939. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the Group receptionist, whose telephone number is (703) 308-0196.



Patrick J. Nolan, Ph.D.
Patent Examiner, Group 1640
July 24, 2000